



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,465	05/06/2008	John Michael Dooley	29793-1	6701

21130 7590 09/17/2010
BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND, OH 44114-2378

EXAMINER

WILLIAMS, ROBERT H.

ART UNIT	PAPER NUMBER
----------	--------------

3679

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

09/17/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@beneschlaw.com

Office Action Summary	Application No. 10/588,465	Applicant(s) DOOLEY ET AL.	
	Examiner Robert Williams	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 8-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of invention I, claims 1-7 in the reply filed on 7/28/10 is acknowledged.
2. Claims 8-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/28/10.

Information Disclosure Statement

3. The information disclosure statement filed 8/1/06 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the foreign search reports identified have not been properly cited. No indication has been given as to what application(s) they were related to, and how, if at all, said applications are related to the instant application. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the

time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 5 recites the limitation “the sealing groove.” There is insufficient antecedent basis for this limitation in the claim. Is this the same as or in addition to the “second seal groove” recited earlier in the claim? If there is a second seal groove, is there a first seal groove?

7. Claim 7 is indefinite because it is not clear whether applicant is claiming a combination (tube retainer and device) or a sub-combination (tube retainer). The preamble of claim 7 indicates that it is drawn to the tube retainer only, but the claim positively recites “said holding clamp is attached to a device,” where said device is not a part of the claimed invention. Further, claim 7 is not a proper dependent claim from

claim 1, because the device is not a part of the tube retainer defined by claim 1, therefore claim 7 does not further limit claim 1. As best understood, claim 7 is intended to be drawn to the combination. Appropriate correction is required. One possible correction would be to replace the preamble of claim 7 with the following: "An assembly including the tube retainer of claim 1."

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by applicant's admitted prior art.

10. Regarding claim 1, applicant's admitted prior art discloses a tube retainer comprising:

a tube (6) having a retention groove (bounded by shoulder 4 and the sealing ring, as shown in Fig. 1) formed in an external surface, adjacent an open end, of said tube, and

a holding clamp (8) adapted to engage said retention groove.

11. Regarding claim 2, applicant's admitted prior art further discloses the retention groove is annular (Fig. 1).
12. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,193,948, Charmley et al. (Charmley '948).
13. Regarding claim 1, Charmley '948 discloses a tube retainer comprising:
a tube (20) having a retention groove (32) formed in an external surface, adjacent an open end, of said tube (Fig. 2), and
a holding clamp (70) adapted to engage said retention groove.
14. Regarding claim 2, Charmley '948 further discloses the retention groove is annular (Fig. 3).
15. Regarding claim 3, Charmley '948 further discloses the holding clamp is a flat plate having a slot formed therein for engaging the retention groove (Figs. 2 & 3).
16. Regarding claim 4, Charmley '948 further discloses the slot is open ended such that it is formed from the peripheral edge of the flat plate (Fig. 3).
17. Regarding claim 5, Charmley '948 further discloses the tube further comprises a seal groove (24) formed in the external surface thereof interposed between the retention groove and the open end of the tube (Fig. 2), wherein the seal groove is adapted to receive sealing means (26).

18. Regarding claim 6, Charmley '948 further discloses the sealing means is an O-ring (column 2, line 24).

19. Regarding claim 7, Charmley '948 further discloses the holding clamp is attached to a device (40), said device having an inlet/outlet port (42) therein for receiving said tube.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Williams whose telephone number is (571)270-1155. The examiner can normally be reached on Mon-Thurs 9:30-7:00, Fri 9:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. W./
Examiner, Art Unit 3679
9/14/2010

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679